

Minutes of a Regular Meeting

Approved 7/24/03

Town of Los Altos Hills PLANNING COMMISSION

Thursday, July 10, 2003, 7:00 p.m.
Council Chambers, 26379 Fremont Road
cc: Cassettes (2) #07-03

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

The Planning Commission regular meeting was called to order at 7:00 p.m. in the Council Chambers at Town Hall.

Present: Chairman Vitu, Commissioners Clow, Cottrell & Kerns
Absent: Commissioner Wong

Staff: Carl Cahill, Planning Director; Angelica Herrera, Assistant Planner; Debbie Pedro, Assistant Planner; Lani Smith, Planning Secretary

2. PRESENTATIONS FROM THE FLOOR-none

3. PUBLIC HEARINGS

- 3.1 LANDS OF LLOYD, 12824 Brendel Drive (79-03-ZP-SD-VAR); A request for a Site Development Permit for a 720 square foot pool and a variance to allow the pool and decking to encroach into the rear setback. (staff-Debbie Pedro)

Staff provided an overview of the staff report indicating the project will produce a reduction of encroachment within the rear setback.

OPENED PUBLIC HEARING

Ray Rooker, 101 First Street, Los Altos, representative, asked for lee way of the pool and deck location of 4 to 6 feet to save some trees. Also, he requested an additional lee way with the new deck located at the other end of the property to encroach 4-5 feet into the setback. He clarified that neither areas are visible from off site.

Frank Lloyd, 12824 Brendel Drive, applicant, discussed moving the existing pool 6 feet into the setback to get it away from the oak tree and an additional 3 feet to the right. Regarding the deck on the 30 foot setback, he is requesting to go 5 feet into the setback. This has not been discussed with staff prior to this meeting.

The Planning Director stated this request would constitute a new variance request and could not be acted on this evening. Staff would not recommend approval to allow the new deck to encroach into the side yard setback. The Commission could discuss the change to the pool

location, subject to staff review and approval, if changes are made. Moving more into the setback would be an issue.

CLOSED PUBLIC HEARING

Commissioner Kerns had reviewed the site previously noting no issue with the original proposal as noted in the report and no problem with moving the pool.. However, they do not have the latitude to approve the deck changes this evening (re-notice). Commissioner Clow noted that the existing pool is already in the setback and they are not giving the applicant any new privileges to reconstruct the pool (less impact). He can support the variance for the pool, moving it 3 feet, with staff review, is acceptable. He would like staff guidance regarding moving the pool 6 feet closer into the setback. Commissioner Cottrell had no problem with the pool change, moving it 3 feet to the right which gives him clearance from a large oak tree. Also, moving it back 6 feet does not appear to be a problem. The new request regarding the deck should follow standard procedures (notice). He would agree to approve the pool and deck as is. Chairman Vitu was in agreement.

MOTION SECONDED AND PASSED: Motion by Commissioner Clow and seconded by Cottrell to approve a request for a Site Development Permit and variance subject to the recommended conditions of approval, Lands of Lloyd, 12824 Brendel Drive, allowing for an adjustment for the pool, 3 feet to the right and 6 feet closer to the edge of the lot, subject to staff review and approval.

AYES: Chairman Vitu, Commissioners Kerns, Clow & Cottrell
NOES: None
ABSENT: Commissioner Wong

This approval is subject to a 23 day appeal period.

3.2 LANDS OF MENDEZ, 27581 Elena Road (108-03-CUP); A request for a Conditional Use Permit for a commercial stable. (staff-Debbie Pedro)

Staff provided a brief background of this project. A letter from Bruce Meyer was received regarding sufficient landscaping to screen the arena and maintain the pastoral nature of this hillside view. The applicant has since brought in six 36" box trees to be planted. If the Commission does not feel the six trees would be adequate, staff could add a condition of approval requesting more plantings to be installed along the frontage. Staff further discussed the conditions of approval, in particular, #12, #13 & #14. It was noted that the applicant is still completing the required landscaping plan for screening prior to the final on the barn.

OPENED PUBLIC HEARING

Mike Mendez, project representative, had no problem with the staff report. He felt the applicants have gone beyond what was required. He commented on Mr. Meyer's letter, expressing cooperation with the neighbor regarding screening.

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Mrs. Solomon, 27500 Elena Road, stated she had read the staff report and had concerns regarding the conditional use permit with the main residence not being built. She would not want the CUP to be transferable if the property was sold.

Pete Foley, 13124 Byrd Lane, felt the applicants have done a good job with the barn. He was disappointed due to the statement that this would be a commercial endeavor. He also had concerns if ownership transfers. For a point of information, he noted that there has been grading on the top of the hill (earth movement where the residence was to be located).

Nancy Couperus, 13680 Page Mill Road, indicated that the Town once had four barns within its boundaries and now only has one. Los Altos Hills is a residential/agricultural community. She would like to see a fund raiser held at this property once a year or perhaps an open house or a low profile event to be a part of the community.

Carol Gottlieb, 24290 Summerhill Road, agreed. She felt it would be wonderful if the owners could open the property for an event.

Dot Schreiner, 14301 Saddle Mountain Drive, felt this was a first class operation but she had a number of concerns regarding the following conditions: #10, could be open for events as previously mentioned; #4, requesting a physical exam of the site within one year; and #13, as she thought samples were required by the Fremont Hills County Club with their CUP. She also questioned the status of the pathway easement dedication (will be reviewed at the City Council meeting July 17, 2003).

Sam Lee, Wright Way, questioned how the Town addresses the pick up of horse manure on pathways. It was noted that the Mendez horses will not be on pathways or roads.

Bruce Meyer, 27581 Elena Road, provided a photo of the six trees which the applicants are planning to plant next week. He would rather not see any of the site. He would be happy to invite the applicant over to view their property from his site so they can see the areas in need of screening.

Denise Quattrone, 13432 Middle Fork Lane, questioned the zoning issues as it relates to the CUP and asked for a clarification regarding "commercial" use. She would not want to see a constant use of bull horns creating noise or the training of horses running into the night with bright lights. She further discussed the off-site view of horse trailers (north end), requesting shrubs in that area for screening. Commissioner Clow suggested she take a photo of the area to be mitigated and present it to Mr. Mendez.

Rick McAulay, 27501 Elena Road, was pleased to get a better understanding of the word "commercial". He requested that the property not be completely prohibited from having an occasional event with minimal announcing although parking may be an issue. He was also happy to see there was some serious fly control in place.

Jeannette Foley, 13124 Byrd Lane, stated this is a beautiful barn and all efforts to keep it clean and orderly are appreciated. She would not want the property mitigated to the extent of having

60 foot trees. She indicated that there is an increase in the fly population currently. Light is a primary concern from their property, requesting no lighting after dark. She concluded by encouraging the owners to have trailers traveling to the property via Elena Road from Robleda Road and La Barranca Road for safety purposes.

Ernest Solomon, 27500 Elena Road, commended the applicants for their cooperation and voicing concerns if the property was sold.

Mike Mendez stated the horses are special horses, not trail horses so you would not expect to see them on any trail. After speaking to the owners, he would be happy to entertain the idea of some type of open house. Regarding the fly issue, there is a system in place in the barn. Next spring they will implement a biological parasite to control flies. This is the same program implemented at West Wind Barn. Regarding the pathway easement, it will be on the City Council agenda July 17, 2003. Regarding the drainage in the stalls, each one of the stalls has roughly 18 inches of pine shavings which are cleaned twice a day. They do not currently have a horse trailer on site. They do have a tact trailer on the east side of the property which should be out of view of the neighbors. The large trailers that are bringing horses to the site do not come up Elena Road but come up El Monte Avenue. Regarding screening, he was happy to work with the neighbors but does not want a redwood forest. One last item, they posted a \$25,000 bond which he would like the staff and/or the Commission to address. He further discussed not building the proposed house and the state of the economy. Also, it was not feasible to put a residence on top of the hill within a years time. Rather than drag the process along, they are addressing the issue now. Regarding the grading mentioned by a neighbor, he stated there is no reason to grade there. He agreed that it would be reasonable to return to the Commission if ownership changes and certainly if the property was ever subdivided, although he could not imagine the property being sold.

Jeannette Foley, 13124 Byrd Lane, indicated she had photos of the site showing the grading. She indicated dirt was spread around.

CLOSED PUBLIC HEARING

The Planning Director was aware of some grading on the site six months ago. He further discussed the Use Permit and the review process which could take place as often as necessary and with a new owner, if the property was sold.

Commissioner Cottrell felt this was a fantastic barn and the applicants should be commended for their efforts with the barn and the landscaping. He felt the project should be approved subject to previous comments with a review in one year and every three years thereafter. This is an asset to the Town. Commissioner Clow agreed. He was impressed that the neighbors were asking for one or two events on the site, maximum two per year with restrictions. He suggested a review of the CUP ever three years or at any time the ownership is transferred. He also felt it would be helpful to take pictures of areas which need additional screening, sharing them with Mike Mendez. Commissioner Kerns also agreed. He suggested a one year review initially or on transfer of ownership. Chairman Vitu felt this is a beautiful facility. She agreed with the one year review of the CUP and/or on transfer of ownership.

MOTION SECONDED AND PASSED: Motion by Commissioner Cottrell and seconded by Commissioner Kerns to recommend to the City Council approval for the requested Conditional Use Permit to operate a commercial stable facility on the property, (Maple Leaf Farm) Lands of Mendez, 27581 Elena Road, with the recommended conditions of approval with the following additions/changes: review the CUP in one year with three year increments thereafter and/or if the ownership is transferred; and, if desired, the applicant may hold up to two public events per year.

AYES: Chairman Vitu, Commissioners Clow, Kerns & Cottrell
NOES: None
ABSENT: Commissioner Wong

This item will be forwarded to the City Council.

- 3.3 LANDS OF OSKOUY & NEVENS, 24143 Hillview Road & 24142 Summerhill Avenue (76-03-LLA); A request for a lot line adjustment. (staff-Angelica Herrera)

Staff introduced this item by reviewing the staff report.

OPENED PUBLIC HEARING

Rasoul Oskouy, 24143 Hillview Road, applicant, reviewed the history of the properties and the request for a lot line adjustment to straighten out the property line which will help both property owners.

CLOSED PUBLIC HEARING

Brief discussion ensued.

MOTION SECONDED AND PASSED: Motion by Commissioner Clow and seconded by Commissioner Kerns to recommend approval to the City Council for a lot line adjustment, Lands of Oskouy & Kevens, 24143 Hillview Road and 24142 Summerhills Avenue.

AYES: Chairman Vitu, Commissioners Cottrell, Kerns & Clow
NOES: None
ABSENT: Commissioner Wong

This item will be forwarded to the City Council.

- 3.4 AMENDMENT TO THE ZONING CODE ORDINANCE WITH REGARD TO RESIDENTIAL CARE FACILITIES AS A PERMITTED ACCESSORY USE AND STRUCTURE, SECTION 10-1.702. (staff-Angelica Herrera)

Staff introduced this item stating the purpose of this proposed ordinance is to bring the Town's Zoning Code into compliance with State law. The proposed ordinance will also satisfy one of the goals of the Town's Housing Element. For clarification, it was noted that residential care facilities are required by state law to have a valid license to operate. State licensing agencies are responsible for overseeing residential care facilities and ensuring that they are in compliance with health and safety laws and regulations. Staff is requesting a review of the staff report and attached ordinance, consider any revisions and forward a recommendation to the City Council. Commissioner Clow commented that this ordinance and item (g), small family day care homes, are very similar, suggesting putting (m) residential care facility, next to item (g).

OPENED PUBLIC HEARING

Dot Schreiner, 14301 Saddle Mountain Drive, asked if the State would consider this affordable housing (response was no). She questioned how this was to be monitored. The Planning Director noted this is simply bringing the Town's Zoning Code into compliance with State law. She further asked if someone could use their secondary dwelling unit as a care facility or does it have to be just the main residence? The Planning Director indicated it could be either or both. It is really dictated by the number (up to six persons). It was felt the wording should be clarified adding "per property" so it would not be assumed someone could have six persons in the main residence and six persons in the secondary dwelling unit.

Carol Gottlieb, 24290 Summerhill Road, voiced concerns regarding parking and traffic. Chairman Vitu noted that the law requires the treatment of the residence facility as family unit. It was noted that the Ordinance is not giving anything that anyone cannot get otherwise.

CLOSED PUBLIC HEARING

MOTION SECONDED AND PASSED: Motion by Commissioner Cottrell and seconded by Commissioner Clow to recommend approval of the proposed Residential Care Facilities Ordinance to the City Council with the following additions/changes: have (m) "Residential Care Facility" wording follow (g) "Small family care homes"; and change the first line in (m) to read "The use of a dwelling unit or portion of *per property*"...

AYES: Chairman Vitu, Commissioners Kerns, Clow & Cottrell
NOES: None
ABSENT: Commissioner Wong

This item will be forwarded to the City Council.

3.5 PROPOSED AMENDMENT TO THE SUBDIVISION ORDINANCE, TITLE 9, ARTICLE 14 PARKS AND RECREATION REQUIREMENTS, SECTIONS 9-1.403, 9-1.405, 9-1.406. (staff-Carl Cahill)

The Planning Director introduces this item. For background, he noted that the most recent census of the Town indicates that 25% of the total population is under the age of 18 years. There has been a desire by residents to form a Parks and Recreation Committee to start organizing

public community recreation activities. The Town has hired a Parks and Recreation Supervisor to manage those activities. With one acre minimum lots, there is much activity going on in each persons individual lot. However, there are many community activities that require a lot of space (soccer, baseball, etc). With the approval of two recent subdivisions it was noticed that there was a problem with the subdivision ordinance as it related to Parks and Recreation in lieu fees or Parks and Recreation land that the Town otherwise was justified in pursuing according to State law, also known as the Quimby Act. Conservation easements are intended to protect natural resources and to protect public safety to a degree when applied over steep slopes or water courses. Conservation easements are not public land; the public does not have any rights of access of that land. They are not recreational resources for the Town. The amendment is recommending a modification to the ordinance that would allow the Town to require the dedication of park land or park land dedication fees, separate from any conservation easement requirements. This has been considered to be like a tax but it is also considered to be an impact fee. The amendment to the subdivision ordinance would allow the town to collect both Park and Recreational in lieu fees and conservation easements, if need be, and to clarify the formula that the town would use to determine the Park and Recreational fee as the Quimby Act does not describe how to come up with a value.

Commissioner Kerns questioned the formula to be used which appears to be based on a percentage of the fair market value of what the entire parcel is worth. Discussion resumed regarding the formula example as presented in the staff report.

The Planning Director continued noting what they are recommending is justifiable, and legal under State law. Pathway easements, conservation easements and Park and Recreation in lieu fees all have different purposes. The Park and Recreation fees would be imposed on sub-dividers only. Chairman Vitu noted that this is a tax for a very few people as there does not appear there are many lots remaining to subdivide. Discussion ensued regarding the Lands of Huang and Horton, two recent subdivisions, and the actual wording/intent of the Quimby Act. The Planning Director stated the ordinance amendment does not state anything different than the Quimby Act. Chairman Vitu indicated that on a two lot subdivision you could conceivably pay \$36,000 for the ball field to be upgraded on the other side of town that you may or may not use. Further discussion ensued regarding the intent of the Quimby Act in much higher density communities.

OPEN PUBLIC HEARING

Carol Gottlieb, 24290 Summerhill Road, provided information regarding lands given at subdivision time which include Juan Prade Mesa Preserve, Saddle Mountain, Murietta Lane, and Duvenick so there has been a history of land given. Pathway and Parks & Recreation use was considered one in the same.

Nancy Couperus, 13680 Page Mill Road, involved in the Open Space Committee, felt the open space lands and recreation lands are very important, not just to young children but there is tremendous need for the young and old. She did not feel the amendment was unreasonable but would be good for the community by improving what they have and adding where they can. They should not limit themselves by saying we have enough. Other communities are making efforts to increase their land holdings and recreation use. She would encourage adoption of the amendment.

CLOSED PUBLIC HEARING

Commissioner Cottrell stated they needed more open space, maintain the open space, and when possible, get more open space. But why stick it to just the developers. This is grossly unfair especially when it is a two lot subdivision, you would have to give conservation easements, pathway easements and now Parks and a Recreation tax. He thought there may be alternatives to raising funds to protect the public lands and improvements. He would rather consider other forms rather than outright taxation which all of the citizens should pay as they all enjoy the public land.

Commissioner Clow felt a positive aspect of the amendment was it separates conservation easements from Parks and Recreation in-lieu fees as they are two completely different issues. They should have a conservation easement when necessary and consider the in-lieu fee whether it is a tax or the only way they can get Park and Recreation funds, looked at separately. He felt the staff report indicates a separation of the two which he supports.

Commissioner Kerns had a problem with the change because the Hills is a rural community and should encourage sub-developers to dedicate land. Conservation easements are a good thing. Currently, how the code is written, an incentive for people doing subdivision is to dedicate conservation easements on parts of the land. The 30% slope rule is an unstated rule and until that becomes codified he would hate to take away this part which gives an incentive to people to dedicate conservation easements. He also felt the "fair market value" was not appropriate. Also, they should modify some sections as there are parts of the Quimby Act which are not codified in the code (repayment of the fees if they are not committed within five years).

Chairman Vitu agreed completely with Commissioner Cottrell. This is a tax to sub-dividers. They should not burden a few people by taking Parks and Recreation fees. It's great to support Parks and Recreation and they can look at ways to fund this but she was more in favor of spreading the tax over the community in general rather than to a few people who want to subdivide their property. She agreed that pathway easements should be included as part of the land being dedicated for public/recreation use.

MOTION SECONDED AND PASSED: Motion by Commissioner Kerns and seconded by Commissioner Cottrell to deny a recommendation of approval to the City Council regarding the proposed amendment to the Subdivision Ordinance, Title 9, Article 14 Parks and Recreation requirements, Sections 9-1.1403, 9-1.1405, and 9-1.1405.

AYES: Chairman Vitu, Commissioners Cottrell & Kerns
NOES: Commissioner Clow
ABSENT: Commissioner Wong

This item will be forwarded to the City Council.

4. OLD BUSINESS

4.1 Report from subcommittees-none

5. NEW BUSINESS

5.1 Schedule Planning Commission meeting for July 24, 2003

PASSED BY CONSENSUS: To schedule a Planning Commission meeting for July 24, 2003.

5.2 Reorganization of Planning Commission

PASSED BY CONSENSUS: Nominating Commissioner Clow as Chairman and Commissioner Kerns as Vice-Chair.

6. REPORT FROM THE CITY COUNCIL MEETING

- 6.1 Planning Commission Representative for June 19th – absent
- 6.2 Planning Commission Representative for July 3rd - cancelled
- 6.3 Planning Commission Representative for July 17th - Vitu

7. APPROVAL OF MINUTES

7.1 Approval of June 12, 2003 minutes

PASSED BY CONSENSUS: To approve the June 12, 2003 minutes.

8. REPORT FROM FAST TRACK MEETING –JUNE 17, 2003

8.1 LANDS OF ZATPARVAR, 24801 Prospect Avenue (32-03-ZP-SD-GD);
A request for a Site Development Permit for a 7,108 square foot new residence (maximum height 28 feet), cabana and swimming pool.
Approved with conditions.

9. REPORT FROM SITE DEVELOPMENT MEETING –JUNE 17, JULY 1 & 8, 2003

- 9.1 LANDS OF GRIMM, 28060 Laura Court (42-03-ZP-SD); A request for a Site Development Permit for a landscape screening plan. Approved with conditions.
- 9.2 LANDS OF BERNSTEIN & MCCALL, 10350 Magdalena Road (75-03-ZP-SD); A request for a Site Development Permit for a 768 square foot secondary dwelling unit (maximum height 22.5 feet). Approved with conditions.
- 9.3 LANDS OF ZHU & XU, 12167 Kate Drive (83-03-ZP-SD); A request for a Site Development Permit for a 2,650 square foot pool and a driveway modification. Approved with conditions.
- 9.4 LANDS OF KLEMM, 12033 Green Hills Court (262-02-ZP-SD); A request for a Site Development Permit for a 967 square foot addition (maximum height 27 feet) and remodel. Approved with conditions.
- 9.5 LANDS OF PATEL, 12690 Dianne Drive (31-03-ZP-SD); A request for a Site Development Permit for a landscape screening plan. Approved with conditions.
- 9.6 LANDS OF KAM, 26888 Almaden Court (103-03-ZP-SD-VAR); A request for a Site Development Permit and minor variance for a bow window to encroach 2 feet into the side-yard setback. Approved with conditions.

10. ADJOURNMENT

The meeting was adjourned by consensus at 9:20 p.m.

Respectfully submitted,

Lani Smith
Planning Secretary